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September 2004

Osha & May, L.L.P.
One Houston Center
1221 McKinney St., Suite 2800
Houston, TX 77010

OCT 4 2004

In re Application of:	:	
Crist et al.	:	DECISION ON PETITION TO
Serial No.: 09/676,292	:	WITHDRAW THE HOLDING
Filed: September 28, 2000	:	OF ABANDONMENT
Attorney Docket No.: 07150.003001	:	

This is a decision on the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT" filed on June 21, 2004. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a). There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper reply to the Office action mailed on October 17, 2003. A Notice of Abandonment was mailed on June 4, 2004.

Petitioner asserts that a response to the Office action of October 17, 2003 was timely submitted to the United States Patent and Trademark Office (USPTO). To support this assertion, petitioner has submitted a copy of the response (an amendment) and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the USPTO on January 16, 2004.


A review of the application file record reveals that the above-identified response having been acknowledged as being received in the USPTO on January 16, 2004 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed June 4, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on June 21, 2004 is accepted since the response originally submitted was apparently lost.

The response will be processed by the Technology Center 2800 support staff and the examiner will prepare an Office action based upon the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

A handwritten signature in black ink, appearing to read "Sharon A. Gibson", is written over a horizontal line.

Sharon A. Gibson, Director
Technology Center 2800
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